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MONTANA LEGISLATIVE HISTORY

Chapter 505 1993

Bill H 375 S _____ Original bill & history ✓ C

H. Committee on Local Government			S. Committee on Local Government		
Hearing Date(s)	Feb 11	✓ C	Hearing Date(s)	Mar 18	✓ C
		C		Mar 25	✓ C
		C			C
		C			C
Date Out	Feb 12	✓ C		Mar 26	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

HB 374 INTRODUCED BY EWER, ET AL.

PROVIDE ADMINISTRATIVE PENALTY IN MONTANA WATER QUALITY LAWS

BY REQUEST OF DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

1/27	INTRODUCED		
1/27	REFERRED TO NATURAL RESOURCES		
1/27	FIRST READING		
1/27	FISCAL NOTE REQUESTED		
2/02	FISCAL NOTE RECEIVED		
2/03	FISCAL NOTE PRINTED		
2/12	HEARING		
2/16	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/17	2ND READING PASSED AS AMENDED	94	5
2/19	3RD READING PASSED	89	9
	TRANSMITTED TO SENATE		
2/22	FIRST READING		
2/22	REFERRED TO NATURAL RESOURCES		
3/26	HEARING		
3/30	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/31	2ND READING CONCURRED	31	15
4/01	3RD READING CONCURRED	31	17
	RETURNED TO HOUSE WITH AMENDMENTS		
4/06	2ND READING AMENDMENTS CONCURRED	87	11
4/12	3RD READING AMENDMENTS CONCURRED	85	15
4/18	SIGNED BY SPEAKER		
4/20	SIGNED BY PRESIDENT		
4/21	TRANSMITTED TO GOVERNOR		
4/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 504		
	EFFECTIVE DATE: 10/01/93		

HB 375 INTRODUCED BY BRANDEWIE, ET AL.

CREATE PRESUMPTION RE: ZONING DISCRIMINATION AGAINST MANUFACTURED HOUSING

1/27	INTRODUCED		
1/27	REFERRED TO LOCAL GOVERNMENT		
1/27	FIRST READING		
2/11	HEARING		
2/12	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/13	2ND READING PASSED	95	2
2/16	3RD READING PASSED	96	2
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO LOCAL GOVERNMENT		
3/18	HEARING		
3/27	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/31	2ND READING CONCURRED	36	7
4/01	3RD READING CONCURRED	42	6
	RETURNED TO HOUSE WITH AMENDMENTS		
4/06	2ND READING AMENDMENTS CONCURRED	98	0
4/12	3RD READING AMENDMENTS CONCURRED	99	1
4/19	SIGNED BY SPEAKER		
4/20	SIGNED BY PRESIDENT		
4/21	TRANSMITTED TO GOVERNOR		
4/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 505		
	EFFECTIVE DATE: 10/01/93		

HOUSE BILL NO. 375

INTRODUCED BY BRANDEWIE, SCHYE, KENNEDY, BARTLETT, GRADY

IN THE HOUSE

JANUARY 27, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
	FIRST READING.
FEBRUARY 12, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 13, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 15, 1993	ENGROSSING REPORT.
FEBRUARY 16, 1993	THIRD READING, PASSED. AYES, 96; NOES, 2.
FEBRUARY 17, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
	FIRST READING.
MARCH 27, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 31, 1993	SECOND READING, CONCURRED IN.
APRIL 1, 1993	THIRD READING, CONCURRED IN. AYES, 42; NOES, 6.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 6, 1993	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 12, 1993	THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

House BILL NO. 375

INTRODUCED BY [illegible]

by Kennedy Bartlett [illegible]

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING ZONING REGULATIONS THAT DISCRIMINATE BETWEEN MANUFACTURED AND SITE-BUILT HOUSING; AND AMENDING SECTIONS 76-2-202 AND 76-2-302, MCA."

WHEREAS, certain zoning codes in Montana prohibit the placement of manufactured housing within districts where the construction of comparable site-built housing is permitted; and

WHEREAS, the reasons for treating manufactured housing differently from site-built housing have, because of significant improvements in the quality and regulation of manufactured housing, lost whatever historical justification they may once have had.

THEREFORE, the Legislature of the State of Montana finds it desirable and appropriate to prohibit discrimination within zoning districts between manufactured and site-built housing.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-2-202, MCA, is amended to read:

"76-2-202. Establishment of zoning districts -- regulations. (1) (a) Within the unincorporated portions of a jurisdictional area which has been established under provisions of 76-1-501 through 76-1-503 or 76-1-504 through 76-1-507, the board of county commissioners may by resolution establish zoning districts and zoning regulations for all or part of the jurisdictional area.

(b) An action challenging the creation of a zoning district must be commenced by October 1, 1994, or within 5 years after the date of the order by the board of county commissioners creating the district, if the district was created after October 1, 1989.

(2) Within some such zoning districts, it ~~shall--be~~ is lawful and within others it ~~shall be~~ is unlawful to erect, construct, alter, or maintain certain buildings or to carry on certain trades, industries, or callings.

(3) In a proceeding for a permit or variance to place manufactured housing within a residential zoning district, there is a presumption that placement of a manufactured home will not adversely affect property values of conventional housing.

~~(3)~~(4) Within each district the height and bulk of future buildings and the area of the yards, courts, and other open spaces and the future uses of the land or buildings ~~shall~~ must be limited and future building setback lines ~~shall~~ must be established.

~~(4)~~(5) All such regulations ~~shall~~ must be uniform for each class or kind of buildings throughout a district, but the regulations in one district may differ from those in other districts.

(6) As used in this section, "manufactured housing" means a single-family dwelling, built offsite in a factory, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily used on site-built homes, and is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home, as defined in 61-4-309, or a housetrailer, as defined in 61-1-501."

Section 2. Section 76-2-302, MCA, is amended to read:

"76-2-302. Zoning districts. (1) For ~~any-or-all-of~~ the purposes of 76-2-301, the local city or town council or other legislative body may divide the municipality into districts of such the number, shape, and area as ~~may--be deemed~~ are considered best suited to carry out the purposes of this part. Within such the districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land.

(2) All such regulations ~~shall~~ must be uniform for each

class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

(3) In a proceeding for a permit or variance to place manufactured housing within a residential zoning district, there is a presumption that placement of a manufactured home will not adversely affect property values of conventional housing.

(4) As used in this section, "manufactured housing" means a single-family dwelling, built offsite in a factory, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily used on site-built homes, and is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home, as defined in 61-4-309, or a housetrailer, as defined in 61-1-501."

-End-

have more right to petition. **Mr. Horsfall** said no, the free-holder would have no change in authorization by statute to petition for a road closure. The bill would simply allow the county commission, by a resolution, to act on and eventually hold a road-closure hearing.

REP. BRANDEWIE asked about the hearing notification requirement. **Mr. Horsfall** said the public process for road closure remains intact. The commissioner's requirement would be notifying all of the landowners who have any adjacent landownership to the road by a letter inviting them to the hearing.

CHAIRMAN WALLIN asked how they would deal with a road that may be a partially maintained road with the remainder being an abandoned road. **Mr. Horsfall** said there is a possibility to have the beginning of a road petitioned to be closed, resulting in the remainder of that road being nonfunctional. In the case of a petitioned road closure with no opposition, **Mr. Horsfall** recommended petitioning to close the entire road rather than just a portion.

Closing by Sponsor:

REP. KNOX thanked the committee and closed on HB 415.

HEARING ON HOUSE BILL 375

Opening Statement by Sponsor:

REP. RAY BRANDEWIE, HD 49, Bigfork, stated HB 375, is a proposed bill to prohibit zoning regulations that discriminate between manufactured and site-built housing. **EXHIBIT 8.** He distributed a proposed amendment from the Montana Realtors Association. **EXHIBIT 9**

Proponents' Testimony:

Stuart Doggett, Executive Director of the Montana Manufactured Housing and RV Association, (MMH and RVA), testified in favor of HB 375. **EXHIBIT 10.** He also distributed testimony from the President of the Association, Bill Pierce. **EXHIBIT 11**

Roger Tippy, MMH and RVA, informed the committee that the **MMH and RVA** filed an amicus brief on an appeal by the Belgrade Board of Adjustment a few years ago which had denied a variance or a conditional use permit to put a manufactured house in a R-1 zone in Belgrade. The Supreme Court ruled as follows:

> "Plaintiff points out a number of state legislatures and local government bodies that viewed the recent technological improvements in manufactured homes as sufficient to eliminate rules of distinguishing them

from modular homes; however, this Court is not willing to sit as a super-legislature or super-zoning board. If an ordinance is found to promote the public health, welfare, safety, morals of the community it is found here the wisdom, necessity, and policy of the ordinance are matters more appropriately left to the legislative body..."

Mr. Tippy stated the supreme court has virtually left it up to the legislature. The approach of the bill does not require local governments to rewrite any of the zoning ordinances. Property values will not be affected; people will still be able to comment; and the conditional permit denied, if the evidence is there.

Don Cape, Ponderosa Homes and Director of the Manufactured Housing Association, testified in support of HB 375 stating the Association has received quite a few requests for housing, and want to meet the property standards set by the different localities. He stated this housing is very viable, efficient and affordable. At the present time, this housing is allowed within a three-mile radius of city limits or in unzoned counties. This limitation creates a hardship on the elderly. The Board of Housing, VA, and FHA recognize these manufactured homes as viable housing when minimal property standards such as a foundation, etc. are met.

Tom Hopgood, Montana Association of Realtors, expressed support for HB 375, thanking the sponsor and **Mr. Doggett** for assisting in the drafting of HB 375.

Andy Skinner, representing **Skinner Enterprises, Corp.,** owner of a subdivision in the Helena Valley, said he has spent seven years preparing a subdivision for this housing. He informed the committee there is not sufficient housing in Helena, and he has a list of people waiting for a lot in his subdivision. **Mr. Skinner** clarified the mobile homes of the past are nothing like today's manufactured homes.

Jim Kuehn, 93 Homes, Inc., Missoula, testified in favor of HB 375. He stated HB 375 would open the door for those people who have long been closed out of the housing market. Missoula is currently changing zoning ordinances. This ordinance would remove any discrimination against any housing manufactured off-site.

Andrew Sholz, Director of Site Development for the Manufactured Housing Institute, testified in favor of HB 375. EXHIBIT 12

Melissa Case, representing **Montana People's Action,** expressed support for HB 375. She stated any movement toward affordable housing will be good. As a recent college graduate, she expressed a need for young people to acquire housing.

Opponents' Testimony:

Jim Flisrand, city of Billings, said he opposed HB 375 because of its vagueness. He stated that Billings currently has city and county planning regulations to control zoning. The bill does not define a pitched roof according to the Uniform Building Code (UBC), which the state has adopted to control construction. The bill allows single-wide homes, since it only specifies 1,000 square feet and not the home width. The bill also does not define permanent foundation. **Mr. Flisrand** stated the bill would have adverse effects on existing subdivisions with high-priced homes. The city of Billings Building Department also has problems related to the remodeling of this type of construction. He pointed out that manufactured homes meet Housing and Urban Development (HUD) requirements; however, these requirements are different from the UBC Code.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. BOHLINGER asked **Mr. Doggett** the cost per square foot to construct a home in a factory. **Mr. Doggett** replied the figures vary, ranging from $28 to $33 per square foot; whereas a site-built home costs $65 per square foot.

REP. BOHLINGER then asked whether, since factory homes cost half as much as the site built homes, it is likely a person would place a factory home on a $30-40,000 lot. **Mr. Doggett** said it would not be likely. The bill specifically addresses compatibility with other homes in the area.

REP. VOGEL asked if a basement can be constructed under a factory home. **Mr. Doggett** said you can have a foundation, a four-foot crawl space, or a basement.

REP. VOGEL asked **Mr. Flisrand** what he considered a permanent foundation and whether a wood foundation is considered permanent. **Mr. Flisrand** replied that the UBC defines a permanent foundation as being below the frost level and that wood is allowed under the code.

REP. WINSLOW asked **Mr. Doggett** the maximum square footage of manufactured homes. **Mr. Doggett** said manufactured homes could go up to 2,800 square feet, which is considered a triple-wide.

REP. WINSLOW stated the requirement in most subdivisions in Billings is a minimum 2,500 square feet. **REP. WINSLOW** asked whether a person who purchased a triple-wide home would be able to put it in almost any neighborhood. **Mr. Doggett** informed **REP. WINSLOW** there may be other local requirements or covenants which would prohibit these homes. **Mr. Doggett** asked **Mr. Skinner** to explain the zoning situation in Helena.

Mr. Skinner informed the committee that several years ago the city of Helena was faced with this problem. The manufactured home dealers and the city together came up with an ordinance in which a manufactured home is allowed in an R-3 zone. A conditional use permit is required in an R-1 or R-2 zone, which gives the city a chance to review its location. He stated Billings would not be precluded from setting up similar regulations.

REP. HANSEN asked **Mr. Skinner** about putting a manufactured home on a leased-home site, and if it would be much like a trailer court. **Mr. Skinner** said the land-lease communities are private developments much like a subdivisions. The developer sets standards for homes which will be allowed in the communities.

REP. WYATT said she was concerned whether it was discriminatory to differentiate between manufactured homes and site-built homes. She asked whether the same argument could be made about covenants. **Mr. Tippy** responded that it was true in theory; however, zoning is derived from powers delegated by the legislature. Covenants are creatures of people's common law right to enter into contracts, and do not require any enabling powers. The amendment proposed by the realtors makes reference to covenants, but it does not enable legislation like the zoning does.

REP. WYATT asked whether zoning laws predate covenant contract agreements in an older neighborhood versus a newer neighborhood. **Mr. Tippy** responded that the area would need to be zoned before the developer could impose the covenants. Many rural areas only have covenants.

REP. BROWN said the biggest problem is for the public to understand the difference between manufactured housing and steel trailers. **REP. BROWN** asked **Mr. Doggett** to address this problem. **Mr. Doggett** said they have included the 1,000 square feet, pitched roof requirement in an effort to differentiate between a flat-roof steel trailer and a manufactured home.

REP. VOGEL asked if manufactured homes meet UBC requirements. **Mr. Doggett** said there are some which do meet the UBC requirements, however, others meet the HUD requirement.

REP. VOGEL noted some cities have UBC requirements and there is a concern that manufactured homes do not qualify. **Mr. Doggett** said the HUD home requirement continues to be a very restrictive code and requires energy values that far exceed the UBC requirements.

REP. DOWELL asked for an explanation of the difference in cost per square foot between a manufactured home and a site-built home. Mr. Doggett replied that when you build in quantity it lowers the cost.

REP. DOWELL asked how many dealers there are in Montana. Mr. Doggett said there are approximately 20 dealers.

REP. HANSEN asked if a manufactured home situated on a lot could be moved. Mr. Doggett replied statistically 90% of these homes, once they are put on a foundation, are not moved.

REP. HANSEN, referring to the second option in the bill, asked what the length of a lease is in a leased-lot subdivision would be. Mr. Cape said 90% are only 30 days. The leased-lot subdivision offers temporary foundations such as concrete blocks.

Closing by Sponsor:

REP. BRANDEWIE clarified that throughout the country there are subdivisions where one can have a long-term lease on a half acre and not have retirement money tied up in land. In any community it will be the appraiser who determines what a permanent foundation is. REP. BRANDEWIE noted the purpose of the bill is to have affordable housing. In Montana there are 110,000 people living in trailer homes in trailer parks. He stated this is the next step in the progression toward home ownership.

EXECUTIVE ACTION ON HOUSE BILL 344

Motion: **MOTION WAS MADE THAT HB 344 DO PASS.**

Motion/Vote: **REP. BROWN MOVED TO AMEND HB 344. EXHIBIT 13** Motion carried unanimously.

Motion/Vote: **REP. BROWN MOVED HB 344 DO PASS AS AMENDED.** Motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 372

Motion: **REP. WYATT MOVED HB 372 DO PASS.**

Motion/Vote: **REP. EWER MOVED HB 372 DO NOT PASS.** Motion failed 13-3 on a roll-call vote with REPS. EWER, VOGEL and WINSLOW voting in favor.

Motion/Vote: **REP. BROWN MOVED TO REVERSE THE VOTE FOR HB 372.** HB 372 do pass motion carried on a 13-3 vote with REPS. EWER, VOGEL and WINSLOW opposing.

EXECUTIVE ACTION ON HOUSE BILL 375

Motion: **REP. BROWN MOVED HB 375 DO PASS.**

Discussion: **REP. BRANDEWIE** said he approved of the amendment. **EXHIBIT 14.** The amendment recognizes existing covenants in unzoned properties.

Motion/Vote: **REP. BROWN** moved to adopt the amendment for HB 375.

EXHIBIT 14. Motion carried 13-3 with **REPS. EWER, SMITH** and **HERRON** opposing.

Motion/Vote: REP. BRANDEWIE MOVED HB 375 DO PASS AS AMENDED. Motion carried 14-2 with **REPS. WYATT** and **RICE** opposing.

EXECUTIVE ACTION ON HOUSE BILL 414

Motion/Vote: MOTION WAS MADE THAT HB 414 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 415

Motion: REP. BROWN MOVED HB 415 DO NOT PASS.

Motion/Vote: REP. VOGEL MOVED TO TABLE HB 415. Motion carried 14-2 with **REPS. McCAFFREE** and **RICE** opposing.

EXECUTIVE ACTION ON HOUSE BILL 481

Motion/Vote: REP. DOWELL MOVED HB 481 DO PASS. Motion carried unanimously.

Motion/Vote: REP. BROWN moved to put HB 481 on the consent calendar. Motion carried unanimously.

ADJOURNMENT

Adjournment: 6:30 p.m.

NORM WALLIN, Chairman

PAT BENNETT, Secretary

NW/pb

EXHIBIT 10
DATE 2-11-93
HB 375

1216 ELEVENTH AVENUE
P.O. BOX 4396
HELENA, MONTANA 59604
406 442-2184

MMH&RV ASSOC. MONTANA MANUFACTURED HOUSING & RECREATIONAL VEHICLE ASSOCIATION

HB 375 - Testimony in Support
by, Stuart Doggett, Executive Director, MMH & RV
February 11, 1993

Mr. Chairman, members of the committee, for the record my name is Stuart Doggett, Executive Director of the Montana Manufactured Housing and RV Association. The association is a statewide organization representing manufactured housing dealers, manufacturers, RV Dealers and various associate members who support the enhancement of the manufactured housing and RV industries.

The association has requested HB 375 and we are pleased for the opportunity to address and work for a much needed change in our state and local zoning laws and how they treat manufactured housing. As Representative Brandewie has indicated the modern manufactured home is an attractive and viable housing alternative. In Montana manufactured housing consumers includes people from all walks of life -- from the first time home buyers, to consumers seeking an easy to maintain form of housing, to retired couples looking to scale down and purchase a guaranteed form of energy efficient housing.

You will hear many positive stories about the manufactured housing industry in Montana, but I want to leave with you a few statistics to consider:

* Presently over 15% of Montana's population, or approximately 55,000, Montanans are living a manufactured home and the numbers are growing.

* Today's manufactured homes are built entirely in a factory then transported to the buyers' homesite where more than 90 percent are permanently sited.

* More and more Montana consumers are demanding manufactured housing. In 1991 the number of shipments to Montana increased approximately 45%. And in 1992 the year end figures are up 56% over 1991. Clearly consumers in Montana like manufactured housing products.

* Statistics from our national affiliate, MHI, also reveal that in 1992 a total of 1,974 private building permits were issued in Montana. Further MHI statistics indicate that 1,021 manufactured homes were shipped to Montana. Or in other words, manufactured housing in Montana in 1992 represented 34.1% of the total number of new privately owned housing units.

Encouraging the development of affordable housing is a problem facing public officials in every part of the country. Although community leaders see manufactured housing as a potential answer, and although Montana consumers are clearly purchasing more manufactured homes then ever, we need your help to eliminate outdated zoning barriers. A step in the right direction will be to pass HB 375. On behalf of our membership we urge you to pass this measure. Thank you.

(Two handouts to be given out)

11
2-11-93
HB 375 Compatible

Compatible Single wide would not be

Owner Poplar Oakwood on Pam Confederate

COST AND SIZE COMPARISONS OF NEW MANUFACTURED HOMES AND SITE-BUILT HOMES SOLD

Manufactured Homes	1985	1986	1987	1988	1989	1990
Average Sales Price	$21,800	$22,400	$23,700	$25,100	$26,600	$27,800
(All lengths and widths)						
Cost per sq. foot	$20.57	$20.18	$20.79	$21.36	$22.26	$23.07
Average sq. footage	$1,060	1,110	1,140	1,175	1,195	1205
Single Section						
Average Sales Price	$17,800	$17,800	$18,400	$18,600	$19,200	$19,800
Cost per sq. foot	$18.84	$18.84	$19.07	$19.18	$19.79	$20.20
Average sq. footage	945	945	965	970	970	980
Multisection						
Average Sales Price	$30,100	$30,800	$32,400	$33,600	$34,800	$36,600
Cost per sq. foot	$21.97	$ 22.08	$22.82	$23.41	$24.17	$25.42
Average sq. footage	1,370	1,395	1,420	1,435	1,440	1,440
Site-Built Homes						
Average Sales Price	$100,800	$111,000	$127,000	$138,200	$148,800	$149,800
Land Price*	$20,160	$22,380	$25,440	$37,314	$42,300	$41,048
Price of structure	$80,640	$89,520	$101,760	$100,886	$106,500	$108,752
Cost per sq. foot	$45.18	$49.05	$53.42	$50.57	$53.25	$53.05
Average sq. footage (Living space)	1,785	1,825	1,905	1,995	2,000	2,050

Source: U.S. Department of Commerce *National Association of Home Builders

Data shows that owning a manufactured home is considerably less expensive than owning a site-built home. The average cost of a manufactured home in 1990 was $27,800 whereas the price of a new site-built home was $149,000 and $118,000 for a used site-built. In 1990, a manufactured home was almost one-fourth the cost of a newly constucted site-built. The median monthly costs for a manufactured home owner in 1990 was $257 compared to $398 for site-built owners and $424 for site-built and manufactured home renters. The size of manufactured homes has also increased, giving consumers greater flexibility and more for their money. In 1990, the average square footage for a manufactured home was 1200 ft., up from 1060 ft. in 1985. Multisection homes accounted for 48% of the homes shipped in 1990.

For more information about manufactured housing, contact:

Manufactured Housing Institute
1745 Jefferson Davis Highway
Suite 511
Arlington, VA 22202
(703) 979-6620

Comparison of Manufactured Home Shipments to Sales of New Single-Family Site-Built Homes
(in thousands)

	1985	1986	1987	1988	1989	1990
Site-Built Homes Sold	688	750	671	676	650	534
Percent of Total	71%	75%	74%	76%	77%	74%
Manufactured Homes Shipped	283	245	233	218	198	188
Percent of total	29%	25%	26%	24%	23%	26%
Total New	971	995	904	894	848	722

Source: U.S. Department of Commerce, Bureau of Census
Data Conventional Homes, C25 Construction Reports

Comparison of Manufactured Home Shipments to All Privately Owned Site-Built Housing Starts
(in thousands)

	1985	1986	1987	1988	1989	1990
Site-Built Homes	1,742	1,805	1,621	1,488	1,376	1,192
Percent of Total	86%	88%	87%	87%	87%	86%
Manufactured Homes	283	245	233	218	198	188
Percent of Total	14%	12%	13%	13%	13%	14%
Total New	2025	2050	1854	1706	1574	1380

EXHIBIT 11
DATE 2-11-93
HL HB 375

MOBILE HOMES
MOTOR HOMES
TRAVEL TRAILERS
PARTS & ACCESSORIES
INSURANCE

GEO. R. PIERCE INC.

5TH STREET WEST AT MONTANA AVENUE
Phone 252-9313
P.O. Box 30777
BILLINGS, MONTANA
59107

February 11, 1993

TO: House Local Government Committee

FROM: Bill Pierce, Pierce Homes of Billings

We are a family firm which has been in the Manufactured Housing business since 1956. To be more accurate, we started out in the trailer business in 1956, and have seen it grow and evolve through the mobile home business into today's Manufactured Housing industry. The Manufactured Housing industry of today has very little in common with the trailer and mobile homes manufactured in the past. The fact that a majority of the other states have adopted legislation similar to HB 375, is pretty strong testimony that, like the cigarette commercial states, "We've come a long way Baby!"

These homes are built to a federally mandated construction standard and those homes that are shipped into Montana, without exception, exceed minimum HUD code standards. As our product has continued to improve over the years, terms and phrases such as, fire trap, wobbly box, tin shed, destroyers of property values, etc., no longer apply.

Today's Manufactured Home buyer sees our product, not as a alternative, but rather a solution to the need for quality affordable, energy efficient, attractive, housing. Based on Montana's per capita income rating, a favorable vote on this bill will, without a doubt, provide more Montanans with an opportunity to own their own home.

The increase in the number of financial institutions actively pursuing long term financing of Manufactured Homes says a great deal about the product we have to offer our customers. The Montana Board of Housing has just recently set aside funds strictly for Manufactured Houses.

This bill also addresses the concern of many people who aren't opposed to Manufactured Homes "as long as they don't try to put one in my neighborhood". As a final note, one of the most effective zoning tools is not in the statutes, but rather a simple fact of economics. The person who purchases a building site for $30,000 to $40,000 or more isn't about to put a $30,000 home (site built or manufactured), on that site. Land costs are a big factor in subsequent building costs.

The discriminatory zoning practices of yesterday's trailer can not and should not be applied to today's Manufactured Homes.

EXHIBIT 12
DATE 2-11-93
HB 375

)on.

\ndrew Scholz, and I am the Director\ of Site Development for
:ured Housing Institute, which is the national trade
epresenting all elements of the manufactured housing
ould like to \give you a national \prespective on House Bill
)u have before you.

) states have statewide legislation and/or state or federal
·ns which have the effect of state legislation, aimed at
exclusionary zoning\ practices with respect toward
:d homes. This year, state legislators in MD, OH, and MISS will
approve bills similar to House Bill 375.

ıe Advisory Commission on Regulatory Barriers to Affordable
ued its report to HUD Sec. Jack Kemp and President Bush. You
eard this report called the NIMBY REPORT. The commission
any of the federal, state and local government barriers which
delivery of affordable housing throughout the country. The
ı clearly stated that in order for affordable housing to become
'ould be necessary for the state governments to take the lead
regulatory barriers. Among the recommendations of the
ı, Recommendation 7-11 calls on state governments to initiate
nd discrimination against certain types of affordable housing
:h as amending their zoning enabling acts to authorize
ed housing as a permitted dwelling unit under local zoning , and
al communities from enacting ordinances forbidding
ed housing. Interestingly enough, during Congressional
hearings on the Kemp Commission Report, one congressman
at local government officials from his district urged both the
state governments to take action to remove regulatory
.ying it would be more acceptable coming from the state and
el than from the local government level.

:d many local government officials, planning commiussion
.nd housing providers express tremendous interest in
:ed housing, and the driving force has been the sudden
that their own sons and daughters cannot afford to own a
e community where they grew up.

y know, the Affordable Housing Act of 1990 required state and
nments that receive federal entitlement funds to prepare a
\S proposal to identify regulatory barriers to affordable
ıd then to present a plan of action to remove those barriers.

Hampshire , in Britton v. the town of Chester, declared that a local government cannot abuse its police powers by using zoning ordinances as a means of excluding an economically disadvantaged segment of the population.

The important point we would would urge this committee to keep in mind is that the technology exists today to provide the most affordable housing opportunities for middle and lower income homeowners by allowing those people to have compatable manufactured homes on building lots located near population and work centers. Manufactured homes can help solve the housing delima without requiring subsidy funds, and we urge you to strongly consider ~~it~~ passage. OF BILL 305.

EXHIBIT 12
DATE 2-11-93
HB 375

EXHIBIT 17
DATE 2-11-93
HB 375

Amendments to House Bill No. 375
First Reading Copy

Requested by Representative Brandewie
For the Committee on Local Government

Prepared by Bart Campbell
February 12, 1993

1. Page 3, following line 14.
Insert: "(7) Nothing contained in this section may be construed to limit existing covenants or the ability to enter into covenants pursuant Title 70, chapter 17, part 2."

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

LOCAL GOVERNMENT COMMITTEE BILL NO. HB 325

DATE 2/11/93 SPONSOR(S) Rep Ray Brandewie

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Stuart Doggett	MT Manufactured Housing Assoc.	✓	
Jim Flisrand	City of Billings		✓
Dan Caple	Peerless Homes Belgrade	✓	
Roger Tippy	MT Mfg Housing Assn.	✓	
Andy Skinner	Skinner Ent. Profit Sharing Trust	✓	
Jim Kuehn	93 Homes Inc. Missoula	✓	
Andrew R. Scholz	MANUFACTURED HOUSING INSTITUTE	✓	
Tom Hopgood	MT. Assoc. Realtors	support amends.	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE STANDING COMMITTEE REPORT

February 12, 1993

Mr. Speaker: We, the committee on Local Government report that House Bill 375 (first reading copy -- white) do pass as amended .

Signed: _____
Norm Wallin, Chair

And, that such amendments read:

1. Page 3, following line 14.
Insert: "(7) Nothing contained in this section may be construed to limit existing covenants or the ability to enter into covenants pursuant Title 70, chapter 17, part 2."

-END-

Committee Vote:

Senator Waterman asked Ms. Erickson if local governments as defined in HB 479 would apply to subdivisions. Ms. Erickson replied no, except as they would impact a county or city government.

Closing by Sponsor:

Representative Larson stated the House recently passed a bill which defined water and sewer districts as units of local government.

Connie Erickson replied the bill to which Representative Larson was referring defined water and sewer districts as units of local government in another title separate from the ones mentioned in HB 479. She said the bill to which Representative Larson was referring would not affect HB 479.

Representative Larson stated HB 479 would require legislators to be more careful when sending mandated legislation to local governments.

HEARING ON HB 375

Opening Statement by Sponsor:

Representative Ray Brandewie, House District 49, spoke from prepared testimony in support of HB 375 (Exhibit #2).

Proponents' Testimony:

Mr. Stuart Doggett, Montana Manufactured Housing Association, stated HB 375 was drafted at their request. He said HB 375 would bring about a much needed change in Montana's zoning laws as they relate to manufactured houses. He stated the modern manufactured home is an attractive and viable housing alternative. According to Mr. Doggett, 34 percent of the new privately owned houses in Montana are manufactured homes. He said there is a lingering perception of trailer homes which is no longer consistent with the manufactured homes industry. Mr. Doggett distributed copies of two manufactured homes publications (Exhibits #3 and #4) and testimony from Mr. James Kuehn, President of '93 Homes (Exhibit #5).

Mr. Lance Clark, Montana Association of Realtors, stated his support for HB 375 in its amended form.

Mr. Roger Tippy, Legal Counsel for the Montana Manufactured Housing Association, stated that two years ago the association filed an amicus brief with the Montana Supreme Court regarding a case in Belgrade pertaining to manufactured homes. He said the

brief filed with the court contended "some ordinances were being arbitrary and capricious in defining a modular home." Mr. Tippy stated the Supreme Court reviewed the case but declined to issue a ruling, stating that the issue should be taken up by the legislative body. He added that many communities with more progressive zoning ordinances would not be impacted by the passage of HB 375.

Mr. Andy Skinner, Lifestyle Homes, stated his business is the largest provider of housing in the Helena area. He said the majority of his customers are people on fixed incomes or young couples interested in obtaining affordable housing. He said many of his manufactured homes look identical to site built homes, and added there was no reason to discriminate against manufactured houses. Mr. Skinner said many federal and state agencies, including the Veterans Administration and the Federal Housing Administration, have declared manufactured housing to be the housing of the future. He said HB 375 would distinguish the manufactured home from the mobile home and would protect people's housing values because the house would be required to match the housing in the area.

Ms. Melissa Case, Montana Peoples' Action, stated her organization's support for HB 375. She said HB 375 encourages accessibility and promotes affordable housing.

Opponents' Testimony:

Mr. Kerwin Jensen, Yellowstone County Zoning Coordinator, spoke from prepared testimony in opposition to HB 375 (Exhibit #6). He distributed copies of Yellowstone County's definition of classes of manufactured homes and the areas in which they are permitted (Exhibits #7 and #8).

Mr. Joe Menicucci, Belgrade City Manager, distributed a copy of the lawsuit to which Mr. Tippy had referred (Exhibit #9). He said he interpreted the "legislative body" referred to in the lawsuit to be the Belgrade City Council. Mr. Menicucci said Montana code does not specifically differentiate between manufactured and mobile homes. He concluded that every site built home in Montana is built by Montana labor while manufactured homes are built by out-of-state laborers.

Ms. Nancy Griffin, Montana Building Industry Association, spoke from prepared testimony in opposition to HB 375 (Exhibit #10).

Mr. Jim Tillotson, Billings City Attorney, stated his opposition to HB 375. He said HB 375 would establish a presumption that putting a manufactured house in a housing addition would not adversely affect the site built homes in the area. Mr. Tillotson said he would be unable to issue sound legal advice on this issue because of its lack of clarity. He noted HB 375 requires manufactured homes to meet Housing and Urban Development (HUD)

standards only for the time period from which they were constructed. Mr. Tillotson concluded passage of HB 375 would result in an increase in litigation to determine its intent.

Mr. David Hull, Helena City Attorney, stated his opposition to HB 375. He said it would be more appropriate for local governments to determine the areas in which manufactured homes may be sited. Mr. Hull said passage of HB 375 would adversely affect local zoning ordinances in all communities because the law would be unclear as to its true intent. He added that HB 375 actually discriminates in favor of manufactured housing because their standards are less strict than those of site built homes. Mr. Hull concluded manufactured houses are, on the average, assessed at $6 per square foot less than site built homes because of the lower standards.

Mr. Alec Hansen, Montana League of Cities and Towns, stated his opposition to HB 375. He said these decisions should be left up to local governments.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Gage asked Mr. Jensen to define the difference between "customarily used" and "commonly used" as they pertain to manufactured housing. Mr. Jensen replied he was unsure. Senator Gage noted that the language used in Mr. Jensen's testimony was just as unclear as the language in HB 375.

Senator Bartlett asked Representative Brandewie how much opposition HB 375 had during its House hearing, to which Representative Brandewie replied not much. He said the Realtors Association had requested some friendly amendments pertaining to covenants which met with his approval.

Senator Bartlett asked Representative Brandewie if he supported the suggestion to clarify some of the specifications defined in HB 375 regarding manufactured homes. Representative Brandewie replied those requirements should be left up to the local areas and added that the intent of HB 375 is to prohibit discrimination against housing on the sole basis that it is a manufactured house.
Representative Brandewie stated he did not want to make HB 375 any more complicated.

Senator Eck asked Representative Brandewie if the HUD standards pertained to manufactured homes or mobile homes, to which Representative Brandewie replied the HUD standards applied to both types of homes.

Senator Eck asked Representative Brandewie if HB 375 would allow local governments to require manufactured houses to meet fire and building inspection codes, to which Representative Brandewie replied HUD standards were generally considered to be acceptable in meeting such standards.

Senator Weldon asked Mr. Doggett how much the average manufactured home cost, to which Mr. Doggett replied a 1,000 square feet home would vary in cost from the "upper twenties to the lower thirties" in thousands of dollars. He added that the more expensive manufactured homes range in cost from $45,000 to $55,000.

Senator Rye asked Mr. Doggett to reply to Mr. Menicucci's argument that manufactured homes are not made by Montana labor. Mr. Doggett replied manufactured housing provides an affordable housing alternative for Montana's families.

Closing by Sponsor:

Representative Brandewie stated HB 375 would provide more affordable housing and would prohibit discrimination against homes on the sole basis of method of manufaction.

HEARING ON HB 584

Opening Statement by Sponsor:

Representative Vivian Brooke, House District 56, stated HB 584 would clarify the responsibilities of water quality district boards. She said HB 584 was drafted at the request of a constituent who had experienced a problem with water quality districts in Utah.

Proponents' Testimony:

None.

Opponents' Testimony:

Ms. Vivian Drake, Missoula City-County Health Department, spoke from prepared testimony in opposition to HB 584 (Exhibit #11).

Informational Testimony:

None.

ROLL CALL

SENATE COMMITTEE Local Government DATE 3-18-93

NAME	PRESENT	ABSENT	EXCUSED
Senator John "Ed" Kennedy	✓		
Senator Sue Bartlett	✓		
Senator Dorothy Eck	✓		
Senator Delwyn Gage	✓		
Senator Ethel Harding	✓		
Senator John Hertel	✓		
Senator David Rye	✓		
Senator Bernie Swift	✓		
Senator Mignon Waterman	✓		
Senator Jeff Weldon	✓		
Senator Eleanor Vaughn	✓		
		✓	

FC8

Attach to each day's minutes

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 2
DATE 3-18-93
BILL NO. HB 375

PROPOSED BILL INTRODUCTION FOR HB 375
SENATE LOCAL GOVERNMENT COMMITTEE 3/18/93
Room 405 -- 3 p.m.
By Representative Ray Brandewie

Today I bring before you HB 375, a bill that is long overdue in Montana, and a bill that seeks to help end discrimination against "Manufactured Housing" by local and state zoning authorities.

Manufactured housing has changed significantly and the products produced today are federally regulated and must comply with very stringent building standards. Actually there are several forms of factory-built or manufactured homes. This bill concerns itself with the form of factory-built housing known as manufactured homes, or what we used to call mobile homes.

For the purpose of this bill the manufactured home must be at least 1000 square feet in size, have a pitched roof, be located on a permanent foundation, and must meet or exceed the building requirements of the other homes in the local or state zoning area. I would add that this bill does not deny local governments the opportunity to establish zoning regulations. Instead the bill seeks to end discrimination against manufactured housing and establish recognition that manufactured housing is a viable housing alternative.

I remind the committee that we live in a state with a housing shortage, and manufactured housing, located on a permanent foundation, offers the chance for many Montanans to own a home. A typical site-built home in Montana cost approximately $65 per square foot to construct. This compares to manufactured housing which cost approximately $28 to $33 per square foot to construct.

For many areas across Montana manufactured housing has been excepted. The purpose of HB 375 is to establish, on a statewide basis, a fair law that all zoning authorities, manufactured housing dealers, consumers and others can understand. I urge you to support this measure.

MHQ

MANUFACTURED HOUSING QUARTERLY

Volume Two, Number Two
Fall 1992

The American Dream of Homeownership

Getting Started In Your Search

A Home To Fit Your Lifestyle And Budget

Choosing Your Neighborhood

Financing Your New Home

Maintaining Your Most Valuable Investment

Special Consumer Issue

The original is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 4
DATE 3-18-93
BILL NO. HB 375

MHQ

The original is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

A93 homes

4805 Hwy. 93 S.
Missoula, Montana 59801

(406) 251-3555

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 5
DATE 3-18-93
BILL NO. HB 375

Members of the State Senate Local Government Committee:

I urge you to respond to bill HB375 in the same way that the House responded...overwhelming approval.

Homes built by hand on site are no longer affordable for the vast majority of Montana wage earners. With government housing subsidies nearly non-existent, the only viable affordable housing alternative is manufactured housing. Because of assembly-line production efficiencies, manufactured homes can be produced for less than half the per square foot cost of a comparable site built home.

I have included excerpts from the new prospective Missoula Zoning Ordinance. The key is a simple one sentence statement:

> "The ordinance removes any discrimination against housing manufactured off-site."

Once again I urge this committee to be instrumental in re-opening the doors for many Montanans to achieve the American Dream of Homeownership.

James D. Kuehn

James D. Kuehn, President

which the zoning ordinance does not regulate. As a result there does not exist a straight-line arithmetic relationship between *target gross densities* and the lot size and dwelling unit parameters in the zoning ordinance. Except with very large development projects with many house sites designed at once, the actually developed density of a residential area rarely reaches the maximum allowed by the regulations.

In most cases the lot size parameters in each proposed district correspond to a lot size of one or more zoning districts in the present ordinance.

Variety of Residential Building Types

In a low-density residential district where an approved neighborhood plan calls for it, the ordinance allows multiple residences: apartment houses or garden apartment developments. However, the regulations also require a large amount of lot area per dwelling unit, so an apartment building would require a very large lot. These two provisions working in tandem maintain development within the density objectives of the Comprehensive Plan while allowing a variety of residential building types. For example, if a district regulation allows duplex houses, that does not mean that a duplex could be built on every lot in the district. Only a lot substantially larger than the district minimum lot size could have a duplex. E.g., 5,400 square feet for a single housing unit, 7,000 square feet for a duplex.

The ordinance removes any discrimination against housing manufactured off-site.

Zoning Permits Issued Conditionally for Developments Requiring Special Care

The proposed zoning ordinance makes extensive use of conditional Zoning Permits, meaning a Zoning Permit issued only if the proposed development meets certain conditions, as determined by either:

- the Zoning Director, a professional zoning specialist (see page 19) or
- the Zoning Review Board, an appointed board of persons with relevant training and experience (see page 20).

Each district regulation allows certain activities and facilities only under certain specified conditions. The ordinance requires a Zoning Permit approved by the Zoning Director or by the Zoning Review Board for those activities and facilities that can potentially disrupt the functioning of an area, but that provide a desirable addition to the area if designed properly.

For example, the City Center district regulations intend to preserve and enhance continuous pedestrian-oriented retail frontage. In this district a drive-in restaurant, a service station, or repair garage could impair the prosperity of the shopping area as a whole by breaking up prime retail frontage and discouraging pedestrian circulation. The City Center especially needs continuous frontage controls to prevent open parking lots from making a sieve of our downtown core as they have in other cities.

Sign Regulations Based on Modern Concepts

The proposed ordinance bases its regulations of signs on a new model sign ordinance published by the American Planning Association.

Defensible Criteria. The new ordinance provides sign controls in all areas of the City based on considerations of *traffic safety* and *community appearance* in compliance with decisions of the U.S. Supreme Court. The regulations do not focus on the message content of the sign. Instead, they deal with type of sign (based on size and placement), visual attributes (movement, lighting, changing message), location on the site, and number and total area of signs.

County of Yellowstone

ZONING COMMISSION
BOARD OF ADJUSTMENT

4TH FLOOR, LIBRARY BUILDING
510 N. 28TH
BILLINGS, MONTANA 59101
(406) 657-8246

TO: Dave Rye, State Senator
FROM: Yellowstone County Board of Commissioners
BY: Kerwin Jensen, County Zoning Coordinator KJ
DATE: March 16, 1993
RE: House Bill #375

STATE LOCAL GOVERNMENT
EXHIBIT NO. 6
DATE 3-18-93
BILL NO. HB375

The Yellowstone County Commissioners are opposed to House Bill #375 based on the following reasons:

1. The definition of "manufactured housing" is too vague in this particular Bill for several reasons:
   a. The proposed language of the Bill states that a manufactured home is at least 1,000 square feet in size. Not only should the overall size of the unit be considered, but the outside dimensions of the unit as well. For example, a unit measuring 14' by 80' would meet the minimum size requirement proposed in this Bill. Long and narrow manufactured homes would seem inappropriate in many residential districts.
   b. The Bill proposes that manufactured homes shall have a pitched roof but does not define a pitched roof. To a certain extent nearly all mobile and/or manufactured homes have at least a slight pitch to allow water to flow from off the top.
   c. The proposed language states that the manufactured home shall be constructed of roofing and siding material that is "customarily" used on site-built homes. Again, this language is very subjective and leaves plenty of room for differences of opinion.

2. More importantly, House Bill #375 is a prime example of state government stepping in on local government zoning issues. The Yellowstone County zoning regulations already address this particular issue in such a way that is suitable for Yellowstone County (see attachment). The Yellowstone County zoning regulations pertaining to manufactured homes may not be appropriate in other counties throughout the state, just as House Bill #375 may not be appropriate for local jurisdictions and each county and/or city should be entitled to draft its own language pertaining to manufactured housing.

In summary, the Board of Yellowstone County Commissioners opposes House Bill #375 and believes that this Bill limits the ability of local governments to establish zoning districts and zoning regulations as referred to in Section 76-2-202 MCA.

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 7
DATE 3-18-93
BILL NO. HB 375

MANUFACTURED HOMES

For the purposes of this Section, the following definitions shall be utilized in determining the appropriate classification of manufactured homes, modular homes and travel trailers:

1. MANUFACTURED HOME: A dwelling unit that: (a) is constructed in accordance with the standards set forth in the Uniform Building Code, applicable to site-built homes, and (b) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and (c) exceeds forty (40) feet in length and eight (8) feet in width.
2. MANUFACTURED HOME, CLASS A: A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U. S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:
    a. The home has a length not exceeding four times its width;
    b. The pitch of the home's roof has a minimum vertical rise of one (1) foot for each five (5) feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;
    c. The exterior siding consists of wood, hardboard, or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
    d. A continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the home; and
    e. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.
3. MANUFACTURED HOME, CLASS B: A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U. S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a Class A manufactured home.
4. MANUFACTURED HOME, CLASS C: Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home.
5. MANUFACTURED HOME PARK: A residential use in which more than one manufactured home is located on a single lot.
6. MODULAR HOME: A dwelling unit constructed in accordance with the standards set forth in the Uniform Building Code, applicable to site-built homes, and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the Uniform Building Code standards applicable to site-built homes), or a series of panels or room sections transported on a truck and erected or joined together on the site.

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 8
DATE 3-18-93
BILL NO. HB 375

RESIDENTIAL LIST OF USES SR - SPECIAL REVIEW A - ALLOWED	A-1	A-S	R-150	R-96	R-70	R-60	RMF	RMH
Churches, Convents & Other Places of Worship	SR	SR	SR	SR	SR	SR	SR	SR
Colleges & Universities (See Schools)								
Community Residential Facilities								
a. Adult Foster Family Care Home	A	SR	SR	SR	A	A	A	A
b. Community Group Home	SR	SR	SR	SR	SR	SR	SR	SR
c. Youth Foster Home I	A	SR	SR	SR	A	A	A	A
d. Youth Foster Home II	SR	SR	SR	SR	SR	SR	SR	SR
e. Youth Group Home	SR	SR	SR	SR	SR	SR	SR	SR
Dwellings								
a. Single-Family	A	A	A	A	A	A	A	A
b. Primary Dwelling With Accessory Apartment					A	A	A	A
c. Two-Family					A	A	A	A
d. Multi-Family						A	A	
e. Manufactured Homes								
1. Class A	A	A	A					A
2. Class B	A	SR	SR					A
3. Class C	SR	SR	SR					A
4. Modular	A	A	A	A	A	A	A	A
f. Townhouses						SR	SR	
g. Farm Tenant Houses	A							
Electric Power Lines & Accessory Structures (See Transmission & Distribution Lines)								
Emergency Services, Including Fire Stations & Ambulance Services	SR	SR	SR	SR	SR	SR	SR	SR

MACK T. ANDERSON INSURANCE AGENCY, INC.
Plaintiff and Appellant,
v.
CITY OF BELGRADE, MONTANA, A Municipal Corporation organized under the laws of the State of Montana and Belgrade Board of Adjustment,
Defendants and Respondents.

LOCAL GOVERNMENT
NO. 9
3-18-93
HB 375

No. 90-238.
Submitted Oct. 25, 1990.
Decided Dec. 20, 1990.
47 St.Rep. 2287.
___Mont.___.
___P.2d___.

ZONING—JUDGMENT, SUMMARY—MUNICIPALITIES, Appeal from order granting summary judgment in favor of city and dismissing complaint which challenged Belgrade zoning ordinance. The Supreme Court held:

1. The ordinance in question bears a reasonable relationship to the advancement of the public health, safety, morals or general welfare of community and constitutes a valid exercise of the city's police power.

2. The court can, in the exercise of its discretion, determine not to take additional evidence if it shall appear to the court that additional evidence is not necessary to properly dispose of the matter.

Appeal from the District Court of Gallatin County.
Eighteenth Judicial District.
Honorable Larry W. Moran, Judge presiding.

For Appellant: McKinley Anderson, Attorney at Law, Bozeman; Joseph W. Sabol, Attorney at Law, Bozeman

For Respondent: William Schreiber, City Attorney, Belgrade

For Amicus Curiae: Leo Ward; Browning, Kaleczyc, Berry & Hoven, P.C., Helena (Montana League of Cities and Towns); Roger Tippy; Tippy & McCue, Helena (Montana Manufactured Housing and Recreational Vehicle Association)

Affirmed.

JUSTICE BARZ delivered the Opinion of the Court.

Plaintiff, Mack T. Anderson Insurance Agency Inc., appeals from an order of the Gallatin County District Court granting summary judgment in favor of defendants City of Belgrade and the Belgrade Board of Adjustment and dismissing plaintiff's complaint which challenged the constitutionality of a Belgrade zoning ordinance. The District Court affirmed the Belgrade Board of Adjustment's decision which upheld the denial of plaintiff's application for a building permit. We affirm.

The issues as framed by this Court are:

1. Is the zoning ordinance prohibiting the individual placement of manufactured homes in an R-4 zoning district a constitutional exercise of the City of Belgrade's police power?

2. Did the District Court abuse its discretion when it granted summary judgment in favor of the defendants without first conducting an evidentiary hearing?

On April 25, 1989, plaintiff applied for a building permit to place a manufactured (mobile) home on Lot 11 of Block 21 of the Armstrong Addition to the City of Belgrade. The manufactured home was to be placed on a permanent concrete foundation. The lot in question is located in an area having an R-4 Zoning designation which is defined under Belgrade City Zoning Ordinance No. 466 as a residential- apartment district. The ordinance was enacted in accordance with a comprehensive zoning plan for the City of Belgrade which was adopted in 1972 and revised in 1979. Modular or site-built homes are treated as conventional housing under the ordinance and are a permitted use within the R-4 district. Individual placement of manufactured homes is not a permitted use within the R-4 district, however, they are permitted in R-2-M and R-S-M districts. Additionally, manufactured homes are permitted in mobile home parks as conditional uses in R-3 and R-4 districts.

Under the City zoning ordinance a manufactured home is defined as:

"A factory built or manufactured transportable residential structure more than thirty-two (32) body feet in length and eight (8) feet or more in width, and built on one or more permanent chassis for towing to the point of use, and designed to be used without a permanent foundation as a dwelling unit when connected to sanitary facilities, and which bears an insignia issued by a state or federal regulatory agency indicating that [the] manufactured home complies with all applicable construction standards of the United States Department of Housing and Urban Development definition of manufactured home. The phrase 'without permanent foundation' indicates that the support system is constructed with the intent that the manufactured home placed thereon can be moved

from time to time at the convenience of the owner. A commercial coach, recreational vehicle, and motor home is not a manufactured home."

A modular home is defined as:

"A factory-fabricated structure designed primarily for human occupancy to be used by itself or to be incorporated with similar units at a building site into a structure on a permanent foundation and which complies with the Montana Building, Plumbing, Electrical, and Mechanical Construction Codes and the rules and regulations for modular housing of the Building Code Division of the Montana Department of Administration. The term is intended to apply to major assemblies and does not include prefabricated panels, trusses, plumbing trees, and prefabricated sub-elements which are to be incorporated into a structure at the site.

"The meter base for incoming wiring is attached to the exterior wall of the modular home; whereas, for a manufactured home, the meter base must be attached to a pole or a support which is isolated from the structure. The units shall be listed and assessed by the County Assessor as real or personal property."

Plaintiff's application was denied on May 4, 1989, by the City planning director on the basis that plaintiff's placement of its manufactured home in the R-4 district would violate the zoning ordinance.

Plaintiff, pursuant to § 76-2-326, MCA, appealed to the Belgrade Board of Adjustment. Plaintiff argued before the board that the ordinance unduly discriminates against manufactured housing in that no substantial difference exists between manufactured housing and modular housing. The board, in its order dated June 26, 1989, found that: (1) there is a difference between a manufactured home and a modular home as those types of housing are defined under the ordinance; (2) a manufactured home is not a permitted use in an R-4 district; (3) an adequate supply of vacant parcels exist in R-S-M and R-2-M districts each in which the individual placement of manufactured homes is a permitted use; and (4) a petition signed by fourteen citizens protested the placement of the manufactured home in the R-4 district. Based on these findings the board concluded that the City planning director properly executed her duties and that the administrative decision to deny the building permit was correct.

On August 2, 1989, plaintiff filed a complaint in the District Court alleging that the action taken by the board in denying the building permit was unreasonable and unconstitutional. On September 21, 1989, an order for writ of certiorari to issue was entered by the District Court pursuant to § 76-2-327, MCA.

The District Court heard oral argument, reviewed the entire record before it, and made an on-site inspection of the geographical area in question. On March 12, 1990, the court granted defendants' motion for summary judgment dismissing plaintiff's complaint and affirming the decision of the board of adjustment. The District Court concluded that the zoning ordinance in question was a legitimate use of the City of Belgrade's police power. The court also concluded that "[a] decision for Plaintiff in this case would have been . . . an unwise move in the direction of judicial zoning, a step the [c]ourt is not prepared to take under the circumstances presented."

From this judgment plaintiff now appeals.

I.

Is the zoning ordinance prohibiting the individual placement of manufactured homes in an R-4 zoning district a constitutional exercise of the City of Belgrade's police power?

Local municipal governments in Montana are empowered to enact zoning ordinances restricting the use of property in their jurisdictional area. Section 76-2-301, MCA, in pertinent part states that:

"For the purpose of promoting health, safety, morals, or the general welfare of the community, [the local legislative body]. . . Is hereby empowered to regulate and restrict . . . the location and use of buildings, structures, and land for trade, industry, residence or other purposes."

A zoning ordinance enacted pursuant to this statutory authority will be found to be a constitutional exercise of police power if it has a substantial bearing upon the public health, safety, morals or general welfare of the community. Freeman v. Board of Adjustment (1934), 97 Mont. 342, 34 P.2d 534; see also, Euclid v. Ambler Realty Co. (1926), 272 U.S. 365, 47 S.Ct. 114, 71 L.Ed. 303.

It is plaintiff's contention that no reasonable basis exists for allowing the placement of modular homes built to Uniform Building Code (UBC) standards within the R-4 district and not allowing the individual placement of manufactured homes built to Housing and Urban Development (HUD) standards since HUD standards are as safe as UBC standards. Plaintiff also argues that the ordinance is unconstitutionally arbitrary because a manufactured home cannot be placed in the R-4 district merely because the home must reach its destination "towed on its own chassis." Plaintiff further argues that there is no rational relationship between the reasons for denying the re-

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Government (1982), 196 Mont. 348, 353-54, 641 P.2d 426, 430, this Court recognized that a municipality must ensure a fair share of housing is within reach of persons of low and moderate incomes and intimated that where an ordinance is shown to unduly exclude manufactured housing the ordinance is unconstitutional. In the present case the ordinance provides an adequate area for manufactured home development. Manufactured homes are permitted uses in R-S-M and R-2-M Zoning districts and manufactured home parks are permitted conditional uses in R-3 and R-4 districts. A survey conducted in late 1986 reflects the present existing situation in the community of Belgrade and shows that approximately 16.88% of the available vacant parcels of land in the area are zoned for manufactured housing.

[1] We hold that the ordinance in question bears a reasonable relationship to the advancement of the public health, safety, morals or general welfare of the community of Belgrade and constitutes a valid exercise of the City's police power.

In so holding, we note that this Court in Cutone v. Anaconda-Deer Lodge (1980), 187 Mont. 515, 610 P.2d 691, quoted with approval from Euclid v. Ambler Realty Co. (1926), 272 U.S. 365, 387-88, 47 S.Ct. 114, 118, 71 L.Ed. 303, 310-11, in which the United State Supreme Court stated:

"The ordinance now under review, and all similar laws and regulations, must find their justification in some aspect of the police power, asserted for the public welfare. The line which in this field separates the legitimate from the illegitimate assumption of power is not capable of precise delimitation . . . *If the validity of the legislative classification for zoning purposes be fairly debatable, the legislative judgment must be allowed to control.*" (Emphasis added.)

Cutone, 610 P.2d at 696. In *Cutone* this Court also quoted with approval from Village of Belle Terre v. Boraas (1974), 416 U.S. 1, 8, 94 S.Ct. 1536, 1540, 39 L.Ed.2d 797, 803-04, in which the United States Supreme Court, in upholding an ordinance which restricted land use to one-family dwellings and prevented the occupation of residences by more than two unrelated individuals within the district, stated:

"We deal with the economic and social legislation where legislatures have historically drawn lines which we respect against the charge of violation of the Equal Protection Clause if the law be "reasonable, not arbitrary" (quoting *Royster Guano Co. v. Virginia*, 253 U.S. 412, 415, 40 S.Ct. 560, 561, 64 L.Ed. 989) and bears 'a rational relationship to a [permissible] state objective.' *Reed v. Reed*, 404 U.S. 71, 76, 92 S.Ct. 251, 254, 30 L.Ed. 2d 225.

"It is said, however, that if two unmarried people can constitute a 'family,' there is no reason why three or four may not. *But every line drawn by a legislature leaves some out that might well have been included. That exercise of discretion, however, is a legislative, not a judicial function.*" (Emphasis added.)

Cutone, 610 P.2d at 696.

As plaintiff points out, a number of state legislatures and local government bodies have viewed the recent technological improvements in manufactured homes as sufficient to eliminate rules distinguishing them from modular homes. However, this Court is not willing to sit as a super-legislature or super-zoning board. Kunz v. Butte-Silver Bow (Mont. 1990), 797 P.2d 224, 226, 47 St.Rep. 1615, 1618; *Cutone*, 610 P.2d at 697. If an ordinance is found to promote the public health, safety, morals or general welfare of the community, as found here, the wisdom, necessity and policy of the ordinance are matters more appropriately left to the legislative body.

II.

Did the District Court abuse its discretion when it granted summary judgment in favor of the defendants without first conducting an evidentiary hearing?

In two recent decisions this Court clarified the appropriate standards for judicial review of an administrative ruling. See, Steer, Inc. v. Dep't of Revenue (Mont. December 11, 1990), No. 90-106 [47 St.Rep. 2199]; Dep't of Revenue v. Kaiser Cement Corp. (Mont. December 11, 1990), No. 90-278 [47 St.Rep. 2221]. This Court will continue to use the "clearly erroneous" standard for reviewing findings of fact. However, in reviewing conclusions of law, our standard of review will be merely to determine if the administrative agency's interpretation of the law is correct, instead of applying the inappropriate abuse of discretion standard. In *Steer, Inc.* we stated that this standard of review relating to conclusions of law applies "whether the conclusions are made by an agency, workers' compensation court, or trial court." *Steer, Inc.* (Mont. December 11, 1990), No. 90- 106, slip. op. at 7. We further stated in *Steer, Inc.* that our standard of review relating to conclusions of law is not to be confused with our review of discretionary trial court decisions. In such instances the standard of an abuse of discretion will still be applied. *Steer, Inc.* (Mont. December 11, 1990), No. 90-106, slip. op. at 7. This is the situation we are presented with here.

[2] Plaintiff argues that the District Court erred in that, without an evidentiary hearing, the court had no way of determining if the findings or rulings of the Belgrade Board of Adjustment were supported by the evidence. Section 76-2-327(3), MCA, provides the dis-

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quested permit and the purposes for which the zoning ordinance was enacted and that the ordinance is restrictive for persons of low and moderate incomes.

In examining the validity of the ordinance we note that the purposes of local government zoning regulation in this state is set forth in § 76-2-304, MCA:

"(1) Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

"(2) Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality."

The purpose of zoning is not to provide for the highest or best use of *each* particular lot or parcel of land within the zones or community, rather it is to benefit the *community generally* by the sensible planning of land uses taking into consideration the peculiar suitabilities and most appropriate use of land *throughout the community*. Cutone v. Anaconda-Deer Lodge (1980), 187 Mont. 515, 520, 610 P.2d 691, 694.

The City of Belgrade agrees with plaintiff that HUD standards are as safe as UBC standards. However, it asserts that its ordinance prohibiting the individual placement of mobile homes within the R-4 district is based on broader grounds than safety including, but not limited to, a concern for long-term planning, the unique qualities of manufactured homes, and the property values of surrounding residents. It further asserts that it is necessary to consider these factors to be able to reasonably enforce its zoning regulations to promote the public health, safety, morals or general welfare of the community. We agree with the District Courts as it properly stated in this case, that local government police power not only allows but requires consideration of these matters as fundamental factors in zoning decisions. Accordingly, we hold that these factors are legitimate bases for regulation.

Having determined that the bases for the City of Belgrade's zoning ordinance are legitimate, the question then becomes whether the ordinance's prohibition of the individual placement of manufactured homes in the R-4 district bears a reasonable relationship to the advancement of the public health, safety, morals or general welfare of the community. In Freeman v. Board of Adjustment (1934), 97 Mont. 342, 351-52, 34 P.2d 534, 537, this Court stated that:

"The trend of modern decisions, however, is to sustain the validity of such ordinances and the statutes authorizing them . . . Such ordinances have been very generally sustained upon the theory that they constitute a valid exercise of the police power; that is to say, they have a substantial bearing upon the public health, safety, morals and general welfare of a community." (Citations omitted.)

We recognize that manufactured housing has become a major factor in the housing of families and that the rapid increase in the number of manufactured homes presents a complex zoning and planning problem. Just like any other use, manufactured homes must be provided for. However, as stated earlier, any provision must be made by zoning regulations designed to benefit the *community generally*. *Cutone*, 610 P.2d at 694; see also Duckworth v. City of Bonney Lake (Wash. 1978), 586 P.2d 860; Anderson, 2 *American Law of Zoning*, § 14.01 p. 665 (3d ed. 1986).

Most municipal efforts to totally exclude manufactured homes from a community have been found unconstitutional as an unreasonable exercise of police power. *Duckworth*, 586 P.2d at 866. However, it has been generally held, in recognition of the differing needs of the community, that manufactured or mobile homes

"are residential uses which possess special characteristics which warrant their separate regulation. Thus, they may be confined to mobile home parks, or may be excluded from residential districts. . . . Absent exceptional circumstances, the exclusion of this use from a residential district is not regarded as unreasonable." (Citations omitted.)

City of Lewiston v. Knieriem (Idaho 1984), 685 P.2d 821, 824. See also, *Duckworth*, 586 P.2d at 867. "The indiscriminate placement of mobile homes within a municipality may undermine conservation of property values and stifle the development of a potential residential neighborhood." *City of Lewiston*, 685 P.2d at 825. Promoting the general health and welfare includes providing necessary services such as water and sewerage, schools, and fire protection. Section 76-2-304, MCA. "Cities have found it easier to provide and regulate necessary services by limiting mobile homes to mobile home parks or other designated areas." *City of Lewiston*, 685 P.2d at 825 (citing State v. Larson (Minn. 1972), 195 N.W.2d 180).

In sum, if the municipality provides an adequate area for manufactured home development, manufactured homes may be excluded from conventional residential districts. In Martz v. Butte-Silver Bow

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trict court with specific authorization to take additional evidence on an appeal from a board of adjustment. However, the court can, in the exercise of its discretion, determine not to take additional evidence if it shall appear to the court that additional evidence is not necessary to properly dispose of the matter.

In the present case the District Court had before it approximately 45 pages of documents and maps which were submitted by the City, along with 22, stipulations of fact and approximately 20 pages of documents submitted by plaintiff. Additionally, the court viewed the entire geographical area, heard oral argument on two separate occasions, plus had the Belgrade Board of Adjustment's written decision and tape recording of the board's meeting in which it upheld the denial of the permit. We hold the District Court did not abuse its discretion.

Affirmed.

CHIEF JUSTICE TURNAGE and JUSTICES HARRISON, SHEEHY, HUNT, WEBER and MCDONOUGH concur.

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2. Definitions in the bill create a confusing standard for courts and local governments to follow.

Our arguments are not aimed at the quality of modular housing, and indeed agree that in many cases these homes may have value similar to a site built home. However we believe that language which exists in HB 375, in particular section 6 on page 3, refers to "compliance with the applicable prevailing standards of the U.S. Department of Housing and Urban Development. These standards have applicability to what is commonly known in the industry as "mobile" homes. Prefabricated "modular" housing is subject to construction standards which meet the Uniform Building Code.

Also, the bill refers to two sections of law which regulate the transportation of prefabricated housing, and it's applicability to definition of specific housing is a stretch of application. Because of these issues which cloud appropriate description of "modular" housing; and the tendency of the industry towards component construction, we believe the issue needs to be a local decision so that each community has appropriate authority to determine the own unique housing and community planning needs.

We believe that in sensitive issues of community planning it is impossible for the state Legislature to adopt definitive prohibitions, such as exist in HB 375, that will be interpreted uniformly in all of Montana's diverse communities. We urge a Do Not Pass for HB 375, an issue best left to local democratic planning processes.

Homebuilders Assoc. of Billings
252-7533

S.W. Montana Home Builders Assoc.
585-8181

Great Falls Homebuilders Assoc.
452-HOME

Flathead Home Builders As
752-2522

Missoula Chapter of NAHB
273-0314

Helena Chapter of NAHB
449-7275

Montana
BUILDING INDUSTRY
ASSOCIATION

Nancy Lien Griffin, Executive Director
Suite 4D Power Block Building • Helena, Montana 59601 • (406) 442-4479

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 10
DATE 3-18-93
BILL NO. HB 375

HB 375
Prohibit Discrimination for Manufactured Housing

Recommend:
Do Not Pass

Mr. Chairman, Ladies & Gentlemen of the Committee:

I am Nancy Griffin, Executive Officer, of the Montana Building Industry Association, representing 6 local associations with nearly 800 small business members serving the homebuilding industry.

We urge a Do Not Pass for HB 375 for the following reasons.

1. Attempts to Circumvent the Local Government Responsibility for Community Planning.

Montana is a diverse state, and each of our communities has special and unique needs with regard to planning and zoning and housing support needs. This legislation would place limitations upon local planning and zoning organizations to react to their own unique planning needs. Local zoning ordinances are developed with great sensitivity to gathering the greatest amount of input from local citizens and property owners. State law currently sets out those issues which must be addressed within a community's zoning plan--among those are to allow for adequate units of affordable housing. Passage of HB 375 would restrict the ability of local government to plan community growth according to the wishes of local citizens.

I believe this legislation is the result of a recent attempt to overturn a local zoning ordinance and variance procedure in the Town of Belgrade, which was developed according to established procedures for public hearing and citizen response. The court upheld the local ordinance and determined that local government had the responsibility for development of local ordinances and procedures; and that property rights were not violated because property owners were aware of applicable restrictions. This legislation is another example of parties, dissatisfied with court rulings, who then turn to the Legislature to correct what is an isolated or local issue.

DATE 18 March 1993

SENATE COMMITTEE ON Local Government

BILLS BEING HEARD TODAY: HB 132 - Wyatt, HB 375 - Brandewie; HB 479 - Larson; HB 481 - Wyatt; HB 584 - Brooke

Name	Representing	Bill No.	Check One: Support	Oppose
Kerwin Jensen	Yellowstone Co./City of Billings	375		X
Joe Menicucci	City of Belgrade	375		X
Vivian Drake	Lewis + Clark Cty	584		X
James C. Clark	MT Assn Realtors	375	X	
Jim Tillotson	City of Billings	375		X
ANDY SKINNER	LIFESTYLE HOMES	375	X	
David N Hull	City of Helena	375		X
Nancy Griffin	Mont. Building Industry Assoc	375		X
Liam Egan	MT Coal Council	HB479		X
MIKE SHEA	BUTTE-SILVER BOW	HB479	X	
Melissa Case	Montana People's Action	375	X	
JOHN AERIGO	MT DHES	584		
Alec Hansen	CITIES	479	X	
Roger Tippy	Tippy & McCue (for MT Mfg Hsg Assn)	375	X	
Stuart Doggett	MT Manufactured Housing Assoc.	375	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

Vote:

The motion to amend HB 308 CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Eck moved HB 308 BE CONCURRED IN AS AMENDED. MOTION CARRIED UNANIMOUSLY. Senator Swift will carry HB 308 on the Senate floor.

EXECUTIVE ACTION ON HB 375

Discussion:

Connie Erickson stated a number of amendments had been requested for HB 375 (Exhibit #9). She said the amendments were drafted to address some of the opponent's concerns about the bill and met with the approval of the sponsor, Representative Brandewie.

Motion:

Senator Waterman moved the Committee adopt the amendments to HB 375.

Discussion:

Senator Gage asked what would happen if "customarily used materials" were not defined in local building regulations. Senator Waterman replied the amendments would give local governments flexibility in determining if manufactured housing met the qualifications for a particular housing community.

Senator Weldon asked Mr. Stuart Doggett from the Montana Association of Manufactured Homes why HB 375 would pertain only to those homes manufactured after 1990. Mr. Doggett replied homes manufactured within the last few years are required to meet stricter standards than homes manufactured ten years ago.

Senator Weldon asked Mr. Doggett if the amendments to HB 375 were crafted by both opponents and proponents of the bill. Mr. Doggett replied the amendments were offered by the bill's proponents in response to many of the objections raised by the opponents.

Vote:

The motion to amend HB 375 CARRIED UNANIMOUSLY.

Discussion:

Senator Eck asked if the exclusion of covenants specified in HB 375 would pertain to design/review standards for historical areas. Connie Erickson replied she did not know.

Senator Gage asked if manufactured homes as defined in HB 375 would be required to comply only with Housing and Urban Development (HUD) standards for mobile homes. Ms. Erickson replied manufactured housing would be required to meet their own specific standards. She added HUD currently defines a manufactured home as a mobile home.

Senator Kennedy asked if the standards manufactured homes would be required to meet were good enough for the purposes of HB 375. Mr. Doggett replied the HUD standards would be sufficient.

Senator Gage asked how HUD standards differed from state building code standards. Senator Eck replied the state building codes pertain to specifics like electric wiring. She added that in most areas outside the city limits, there are no building standards or codes. Senator Eck stated she did not think compliance with HUD standards would compromise safety.

Senator Swift asked Mr. Doggett if manufactured homes were required to meet Montana building codes. Mr. Doggett replied it would depend on the building codes of the particular community.

Motion:

Senator Eck moved the Committee amend HB 375 to also exclude covenants and design/review standards imposed in historic districts from the bill.

Discussion:

Senator Bartlett asked Senator Eck to define design/review standards. Senator Eck replied the reference to design/review pertains to the standards imposed in some areas to maintain the historic flair or style of the particular area.

Senator Bartlett asked Senator Eck if she would object to specify that "local design/review standards" would be exempted from HB 375. Senator Eck replied she would not object.

Vote:

The motion to amend HB 375 CARRIED UNANIMOUSLY.

Discussion:

Senator Gage asked if the language in subsection 7 should be repeated in Section 2. Connie Erickson replied yes.

Motion/Vote:

Senator Waterman moved the Committee amend HB 375 to add a Section 2, subsection 5 repeating the language contained in Section 1, subsection 7. MOTION CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Waterman moved HB 375 BE CONCURRED IN AS AMENDED. MOTION CARRIED with Senator Rye voting NO. Senator Bartlett will carry HB 375 on the Senate floor.

EXECUTIVE ACTION ON HB 132

Motion/Vote:

Senator Weldon moved HB 132 BE CONCURRED IN. MOTION CARRIED UNANIMOUSLY. Senator Eck will carry HB 132 on the Senate floor.

EXECUTIVE ACTION ON HB 301

Discussion:

Connie Erickson stated HB 301, in its current form, was problematic. She said it was her opinion that HB 301, as amended on the House floor, violates the bill's original statement of intent. Ms. Erickson stated she spoke with Greg Petesch from Legislative Counsel who, in turn, stated there were two main problems with the bill. First, he said HB 301 did not sufficiently define "federal pretreatment standards" and, second, he said the amendments offered to HB 301 by the House moved the bill away from its original intent. She said the bill, in its original form, merely increased the penalty while the amended bill created an entirely new penalty. Ms. Erickson suggested the Committee consider stripping the House amendments and returning HB 301 to its original form. She concluded HB 301, in its original form, would increase the maximum penalty for violation of a municipal or local government ordinance from $500 to $1,000.

Motion:

Senator Eck moved the Committee strip the House amendments to HB 301.

ROLL CALL

SENATE COMMITTEE Local Government DATE 3-25-93

NAME	PRESENT	ABSENT	EXCUSED
Senator John "Ed" Kennedy	✓		
Senator Sue Bartlett	✓		
Senator Dorothy Eck	✓		
Senator Delwyn Gage	✓		
Senator Ethel Harding	✓		
Senator John Hertel	✓		
Senator David Rye	✓		
Senator Bernie Swift	✓		
Senator Mignon Waterman	✓		
Senator Jeff Weldon	✓		
Senator Eleanor Vaughn	✓		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

March 26, 1993

MR. PRESIDENT:
We, your committee on Local Government having had under consideration House Bill No. 375 (third reading copy -- blue), respectfully report that House Bill No. 375 be amended as follows and as so amended be concurred in.

Signed: John Ed Kennedy Jr.
Senator John "Ed" Kennedy, Jr., Chair

That such amendments read:

1. Title, line 5.
Strike: "PROHIBITING"
Insert: "CREATING A PRESUMPTION WITH RESPECT TO"

2. Title, line 6.
Following: "BETWEEN"
Insert: "CERTAIN"

3. Page 1, line 20.
Strike: "prohibit"
Insert: "discourage"

4. Page 2, line 19.
Following: the first "a"
Insert: "rebuttable"

5. Page 3, line 7.
Following: "factory"
Insert: "on or after January 1, 1990"

6. Page 3, line 10.
Following: "customarily"
Insert: ", as defined by local regulations,"

7. Page 3, line 17.
Following: "LIMIT"
Insert: "conditions imposed in historic districts, local design review standards,"
Following: "COVENANTS"
Insert: ","

8. Page 4, line 10.
Following: the first "a"
Insert: "rebuttable"

Amd. Coord.
Sec. of Senate

Senator Bartlett
Senator Carrying Bill

9. Page 4, line 14.
Following: "factory"
Insert: "on or after January 1, 1990"

10. Page 4, line 17.
Following: "customarily"
Insert: ", as defined by local regulations,"

11. Page 4.
Following: line 22
Insert: "(5) Nothing contained in this section may be construed to limit conditions imposed in historic districts, local design review standards, existing covenants, or the ability to enter into covenants pursuant to Title 70, chapter 17, part 2."

-END-

Amendments to House Bill No. 375
Third Reading Copy

Requested by Representative Brandewie
For the Committee on Local Government

Prepared by Connie Erickson
March 24, 1993

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 9
DATE 3-25-93
BILL NO. HB 375

1. Title, line 5.
Strike: "PROHIBITING"
Insert: "CREATING A PRESUMPTION WITH RESPECT TO"

2. Title, line 6.
Following: "BETWEEN"
Insert: "CERTAIN"

3. Page 1, line 20.
Strike: "prohibit"
Insert: "discourage"

4. Page 2, line 19.
Following: the first "a"
Insert: "rebuttable"

5. Page 3, line 7.
Following: "factory"
Insert: "on or after January 1, 1990"

6. Page 3, line 10.
Following: "customarily"
Insert: ", as defined by local regulations,"

7. Page 4, line 10.
Following: the first "a"
Insert: "rebuttable"

8. Page 4, line 14.
Following: "factory"
Insert: "on or after January 1, 1990"

Exhibit - 1
3-25-93
HB-375

9. Page 4, line 17.
Following: "customarily"
Insert: ", as defined by local regulations,"